THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.16639 OF 1998

DATED: 06-06-2007

Between:

S. Koti Swamy

.. Petitioner

and

The Fertilizer Corporation of India (Govt. of India Enterprise), 55, Madhuban, Nehru Place, New Delhi, represented by its Chairman and Managing Director and another.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.16639 OF 1998

ORDER:

This writ petition is filed seeking a mandamus declaring that the first respondent Corporation is bound by the decision of the Government of India communicated through Office Memorandum No.18 (6)/98 GM/GL-002, dated 19.05.1998, of the Department of Public Enterprises, Ministry of Industry, Government of India, and direct the first respondent Corporation to fix the age of superannuation of its below board level employees at 60 years from May 1998 onwards; and consequently to declare that the petitioner is entitled to be retained and continued in service as Assistant Finance Manager in the first respondent Corporation.

The facts are not much in dispute. It appears, the petitioner was working as Assistant Finance Manager in the first respondent-Fertilizer Corporation of India in the year 1998. While so, the Department of Public Enterprises, Ministry of Industry, Government of India, had issued a memorandum, dated 19.05.1998, enhancing the age of superannuation of below board level employees of the Central Public Sector Enterprises from 58 years to 60 years. It is the grievance of the petitioner that the said Memorandum, dated 19.05.1998, was not given effect to by the first respondent- Corporation and, hence, the benefit of enhancement of the age of superannuation was not extended to him. According to the petitioner, he is automatically

entitled to the benefit of enhancement of the age of superannuation from 58 to 60 years as per the said memorandum, dated 19.05.1998.

The learned counsel for the respondents strenuously contended that the memorandum, dated 19.05.1998, issued by the Department of Public Enterprises, Ministry of Industry, Government of India, will not be automatically applied to the employees of the first respondent-Corporation unless and until a valid resolution is passed by the Board of the Corporation adopting the same. In fact, in the month of December 1999, the first respondent- Corporation went before the Government of India seeking exemption from adopting the said memorandum, dated 19.05.1998, and, on 30.12.1999, exemption was granted till the finalisation of B.I.F.R. proceedings pertaining to the first respondent- Corporation, subject to revival etc.

From the facts noted above, it is clear that the memorandum, dated 19.05.1998, issued by the Department of Public Enterprises, Ministry of Industry, Government of India, was not adopted by the first respondent- Corporation as on the date of the retirement of the petitioner on his attaining age of 58 years or even thereafter. In fact, an exemption was obtained on 30.12.1999 from the Department of Public Enterprises from adopting the said memorandum till the finalisation of B.I.F.R. proceedings pending in respect of the first respondent.

In view of the above, I am of the opinion that when the memorandum, dated 19.05.1998, was not at all adopted by the first respondent- Corporation, the petitioner is not entitled to continue in service till he attains the age of 60 years. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is accordingly dismissed. No costs.

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C.V. RAMULU, J

6th June, 2007.
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